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**DATE:** January 29, 2002

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
ECONOMIC DEVELOPMENT AND INTERNATIONAL TRADE  
ANALYSIS**

**BILL #:** HB 877  
**RELATING TO:** Enterprise Zones  
**SPONSOR(S):** Representative Spratt

**TIED BILL(S):**

**ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:**

- (1) ECONOMIC DEVELOPMENT AND INTERNATIONAL TRADE
  - (2) FISCAL POLICY AND RESOURCES
  - (3) COUNCIL ON COMPETITIVE COMMERCE
  - (4)
  - (5)
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**I. SUMMARY:**

This bill authorizes boundary amendments of certain rural enterprise zones before December 31, 2002, for the purpose of replacing areas not suitable for development. The governing bodies of two types of counties may apply to the Office of Tourism, Trade, and Economic Development for boundary changes:

- Counties in which the state enterprise zone designation is based on previous federal designation as a rural empowerment zone or a rural enterprise community under Title XIII of the Omnibus Budget Reconciliation Act of 1993 or the 1999 Agriculture Appropriations Act.
- Counties that have state enterprise zone designation under s. 290.0065(3)(a)2., F.S., which applies to the 50,000 to 150,000 population category based on the 1990 census.

The Office of Tourism, Trade, and Economic Development must approve the requested boundary amendments if the change does not increase the overall size of the enterprise zones.

The bill amends s. 290.0065, F.S., and takes effect upon becoming a law.

The Revenue Impact Conference has not reviewed this bill.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |   |                             |   |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

In 1980, Florida established one of the first enterprise zone programs in the country to encourage economic growth and investment in distressed areas. An enterprise zone is a specific geographic area targeted for economic revitalization. The state offers a number of tax advantages to businesses willing to make such an investment.

In 1994, the legislature made significant revisions to the Enterprise Zone Program. The original program became overwhelmed with the number of zones allowed. As a result, the existing zones were repealed on December 31, 1994, and parameters were established for designation of new zones. Administrative responsibilities of the program were transferred from the Department of Community Affairs to the Department of Commerce. The jobs tax credit eligibility criteria were revised to require both the business and the employee to reside within an enterprise zone. Since July 1, 1995, the state has designated 34 enterprise zones.

In 1995, 19 enterprise zones were designated in urban and rural communities throughout the state. Local governments were required to establish a community-based Enterprise Zone Development Agency (EZDA). In 1996, 11 new enterprise zones were authorized by the legislature, of which 10 submitted acceptable plans and applications. Administrative duties were transferred to the newly created Office of Tourism, Trade, and Economic Development (OTTED) upon the dissolution of the Department of Commerce. In 1997, OTTED designated the City of Ft. Pierce as the 30<sup>th</sup> enterprise zone.

In 1998, the 31<sup>st</sup> enterprise zone was added when the Legislature further amended the Enterprise Zone Program, by authorizing a new zone for designation within a brownfield pilot project area (Clearwater). Also in 1998, the legislature provided that new employees who are Work and Gain Economic Self-sufficiency (WAGES) program participants or Job Training Partnership Act classroom training participants may provide a basis for employers to claim the enterprise zone job tax credit under ss. 212.096 and 220.181, F.S., regardless of whether or not such employees reside in the zone.

In 1999 and the first two months of 2000, enterprise zones were approved for Lake Apopka (32<sup>nd</sup>), Liberty County (33<sup>rd</sup>), and Hendry County (34<sup>th</sup>). Suwannee County, Columbia County, and Gadsden County applied for designation in FY 2000 as well but did not meet eligibility requirements.

In 2001, the legislature authorized several counties to apply for enterprise zone designation prior to December 31, 2001. Twelve counties applied for enterprise zone designation under this latest authorization and OTTED advises that it expects to approve all applications in this group soon. The effective date for these proposed zones would be January, 2002.<sup>1</sup>

The 2001 legislature made several changes to provisions governing rural enterprise zones. Specifically, the legislature authorized rural enterprise zones to apply for boundary changes under certain circumstances, including meeting a December 30, 2001 application deadline.<sup>2</sup>

Chapter 2001-201, Laws of Florida, deleted the specified date by which an eligible municipality may apply for creation of a satellite enterprise zone and authorized creation of such zones retroactive to December 31, 1999. In addition, businesses in a newly created satellite enterprise zone are eligible to receive retroactively a refund of certain sales taxes paid back to that date.

### **Enterprise Zone Designation Process and Criteria**

Section 290.0055, F.S., provides requirements for nominating and selecting an enterprise zone and provides size limitations depending on the community population category. This section also requires that the selected area suffer from pervasive poverty, unemployment, and general distress, as described and measured under s. 290.0058, F.S.

Section 290.0058(2), F.S., specifies that pervasive poverty must be evidenced by a showing that poverty is widespread throughout the nominated area. The poverty rate of the nominated area shall be established using the following criteria: (a) in each census geographic block group within a nominated area, the poverty rate shall not be less than 20 percent; and (b) in at least 50 percent of the census geographic block groups within the nominated area, the poverty rate shall not be less than 30 percent.

Section 290.0065, F.S., outlines the process for designating an enterprise zone. It authorizes OTTED to designate no more than a total of 20 zones to be placed in five population categories.<sup>3</sup> Each application is to be ranked competitively within the appropriate category based on the pervasive poverty, unemployment, and general distress of the area. Areas are to develop strategic plans and be evaluated on the following key principles: 1) economic opportunity, including job creation within the community and throughout the region, as well as entrepreneurial initiatives, small business expansion, and training for jobs that offer upward mobility; 2) sustainable community development that advances the creation of livable and vibrant communities through comprehensive approaches that coordinate economic, physical, community, and human development; 3) community-based partnerships involving the participation of all segments of the community; 4) strategic vision for change that identifies how the community will be revitalized; and 5) local incentives should induce economic revitalization, including job creation and small business expansion.

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<sup>1</sup> Counties applying by December 31, 2001, were Gadsden, Okeechobee, DeSoto, Madison, Glades, Putnam, Hardee, Calhoun, Holmes, Okaloosa, Sarasota, and Hernando.

<sup>2</sup> Rural enterprise zones applying for boundary amendments are: Pahokee, Freeport, DeFuniak Springs, Highlands, Franklin, Wakulla, Washington, Liberty, Taylor, and Gulf.

<sup>3</sup> Often, this provision is circumvented by inserting language in statute which states: "Notwithstanding the provisions of s. 290.065 limiting the total number of enterprise zones designated and the number of enterprise zones within a population category, the Office of Tourism, Trade, and Economic Development may designate one enterprise zone under this section."

## **Enterprise Zone Program Costs**

Costs of the Enterprise Zone Program have increased as new areas have been added. The total cost of state and local incentives was \$11.2 million in fiscal year (FY) 1996-97 and \$13 million in FY 1997-98. Costs increased by \$11 million in FY 1998-99, totaling \$24 million in state and local incentives (\$5.2 million in state tax incentives approved by the Department of Revenue and \$18.8 million in incentives by the local governing bodies; however, some of the local incentives provided are federal pass-through funds). In FY 1999-00, the total program cost dropped back down to \$15 million despite an increase of \$300,000 in state program spending. The drop was due to local government incentives declining \$8.7 million. The enterprise zone annual report, compiled by OTTED in conjunction with the Department of Revenue, is scheduled for release March 1, 2002, and will contain enterprise zone program costs for FY 2000-01.

## **State Incentives Available to Businesses in Enterprise Zones**

Section 290.007, F.S., enumerates the majority of incentives provided by the state to “encourage revitalization of enterprise zones.”<sup>4</sup>

- Enterprise zone jobs credit provided in s. 220.181, F.S.;
- Enterprise zone property tax credit provided in s. 220.182, F.S.;
- Community contribution tax credits provided in ss. 212.08, 220.183, and 624.5105, F.S.;
- Sales tax exemption for building materials used in the rehabilitation of real property in enterprise zones provided in s. 212.08(5)(g), F.S.;
- Sales tax exemption for business property used in an enterprise zone provided in s. 208(5)(h), F.S.;
- Sales tax exemption for electrical energy used in an enterprise zone provided in s. 212.08(15), F.S.;
- Enterprise zone jobs credit against the sales tax provided in s. 212.096, F.S.;
- Discounts on tarriffed rates for telecommunications and utilities.

### *Enterprise Zone Jobs Credit – Corporate Income Tax*

Section 220.181, F.S., provides that, effective January 1, 2002, the enterprise zone jobs credit against corporate income tax applies only to businesses that have increased the number of full-time jobs from the average of the previous 12 months, or have added at least five new full-time jobs between July 1, 2000, and December 31, 2001. Comparable to the enterprise zone jobs credit against the sales tax, credit against the corporate income tax is computed as 20 percent of the actual monthly wages paid for each new job created, or 30 percent of the monthly wages paid if the business is located in a rural enterprise zone. If at least 20 percent of the full-time permanent employees of the business are residents of an enterprise zone, the credit is 30 percent of the actual monthly wages paid, or 45 percent of the actual monthly wages paid if the business is located in a rural enterprise zone. The credit is allowed for up to 24 consecutive months, beginning with the first tax return due after approval by the department.

If the new employee is a welfare transition program participant, the credit is 40 percent of the monthly wages paid if the hourly rate is \$4 above the hourly federal minimum wage rate; 42 percent if the hourly rate is \$6 above the hourly federal minimum wage rate; 43 percent if the hourly rate is

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<sup>4</sup> The 2001 legislature made several changes to the incentives program effective July 1, 2001 (chapter 2001-201, Laws of Florida). These changes are included in this narrative.

\$7 above the hourly federal minimum wage rate; and 44 percent if the hourly rate is \$8 above the hourly federal minimum wage rate.

Businesses that are located in rural enterprise zones and hire employees who live outside the zone's boundaries may claim the corporate income tax credit if the employees live within the jurisdiction of a rural county.

#### *Enterprise Zone Property Tax Credit -- Corporate Income Tax*

Section 220.182, F.S., provides that new or expanded businesses located in an enterprise zone may be granted a credit against corporate income tax liability equal to 96 percent of ad valorem taxes paid on the new or improved property (the assessment rate varies by county).

#### *Community Contribution Tax Credits – Corporate Income Tax, Sales Tax, and Insurance Premium Tax*

Section 212.08(5)(q), F.S., provides that, beginning July 1, 2001, the community contribution tax credit, which previously was available to eligible businesses under s. 220.183, F.S. (corporate income tax), and s. 624.5105, F.S. (insurance premium tax), was extended to include credits against the state sales and use tax. Taxpayers may take the credit against only one of the three taxes. The credit is computed as 50 percent of a contribution made to an eligible sponsor for an eligible project and is limited to a maximum of \$200,000 per donor per year. In 2001, the legislature also added Front Porch Communities as eligible projects for the credits.

#### *Exemption for Building Materials Used in an Enterprise Zone – Sales Tax*

Section 212.08(5)(g), F.S., provides that, effective July 1, 2001, the sales tax exemption for building materials used in the rehabilitation of real property located in an enterprise zone is available to nonprofit community-based organizations, as well as to city, county or other governmental agencies if the materials were paid for from funds from:

- community development block grants;
- State Housing Initiatives Partnership Program; or
- similar grant or loan program.

#### *Exemption for Business Property Used in an Enterprise Zone – Sales Tax*

Section 212.08(5)(h), F.S., provides a sales tax exemption for the purchase of certain business property, which is used exclusively in an enterprise zone. Effective July 1, 2001, the items eligible for the refund must have a sales price of at least \$5,000 per unit and must meet other criteria under the "business property" definition.<sup>5</sup>

#### *Exemption for Electrical Energy Used in an Enterprise Zone – Sales Tax*

Section 212.08(15)(g) provides a sales tax exemption<sup>6</sup> to a qualified business located in an enterprise zone on the purchase of electrical energy if the local governments have exempted at least one-half of the municipal utility tax. The business may receive the exemption for 5 years.

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<sup>5</sup> Please see s. 212.08(5)(h)9.a.- d., F.S.

<sup>6</sup> The sales tax exemption is 50 percent unless at least 20 percent of the employees of the business are residents of an enterprise zone; in that case, the exemption is 100 percent.

*Enterprise Zone Jobs Credit – Sales Tax*

Section 212.096, F.S., provides that, effective January 1, 2002, the enterprise zone jobs credit against sales tax no longer applies to part-time jobs. Effective on that date, the enterprise zone jobs credit against sales tax is available to businesses which have increased the number of full-time jobs from the average of the previous 12 months, or added at least five new full-time jobs between July 1, 2000, and December 31, 2001. The credit is also available for jobs filled by leased employees who meet specific criteria. The credit is computed as 20 percent of the actual monthly wages paid for each new job created or 30 percent of the monthly wages paid if the business is located in a rural enterprise zone. If at least 20 percent of the full-time permanent employees of the business are residents of an enterprise zone, the credit is 30 percent of the actual monthly wages paid or 45 percent of the actual monthly wages paid if the business is located in a rural enterprise zone.

If the new employee is a welfare transition program participant, the credit is 40 percent of the monthly wages paid if the hourly rate is \$4 above the hourly federal minimum wage rate; 42 percent if the hourly rate is \$6 above the hourly federal minimum wage rate; 43 percent if the hourly rate is \$7 above the hourly federal minimum wage rate; and 44 percent if the hourly rate is \$8 above the hourly federal minimum wage rate.

“New job has been created” means the total number of full-time jobs has increased in an enterprise zone from the average of the previous 12 months, as demonstrated to the Department of Revenue by a business located in the enterprise zone (Section 212.096(1)(e), F.S.).

For purposes of this section, the credit against the sales tax is allowed for up to 24 consecutive months, beginning with the first tax return due after approval by the department.

Section 290.00677, F.S., allows businesses in rural enterprise zones to claim the enterprise zone jobs credit against the sales tax for hiring employees who live outside the boundaries of the zone if the employees live within the jurisdiction of a rural county.

*Discounted Rates – Public Utilities and Telecommunications*

Section 290.007(8), F.S., authorizes the Public Service Commission to allow public utilities and telecommunications companies to grant discounts of up to 50 percent on tariffed rates for services to small businesses located in an enterprise zone designated pursuant to s. 290.0065, F.S. The discounts may be granted for a period not to exceed 5 years.

**C. EFFECT OF PROPOSED CHANGES:**

Hendry County, which received its state enterprise zone designation based on its previous federal designation as a rural enterprise community, may apply to OTTED for enterprise zone boundary changes.

Highlands County, which initially received its state enterprise zone designation based on its population category (50,000 to 150,000), may apply to OTTED for enterprise zone boundary changes.

The counties would be able to replace areas in their enterprise zones not suitable for development with areas that are more attractive to businesses wishing to take advantage of enterprise zone incentives.

D. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Impact Conference has not reviewed this bill. Because the counties plan to exchange wetlands for developable land within their enterprise zones, there may be a small fiscal impact on the General Revenue Fund from the increase in use of state tax incentives.

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Businesses located within the amended enterprise zone boundaries will be eligible to claim tax incentives when hiring zone residents or making capital investments within the zone.

D. FISCAL COMMENTS:

The Office of Tourism, Trade, and Economic Development and the Department of Revenue do not assign any additional costs for administering the applicable provisions of this bill.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill will not reduce the authority of counties and municipalities to raise total aggregate revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill is not anticipated to reduce the total aggregate percent of state sales tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

HB 877 applies to Jackson County in addition to Hendry and Highlands Counties. In 1998, Jackson County took advantage of a similar opportunity to replace land within its enterprise zone boundaries. OTTED advises that it is unlikely Jackson County would apply for boundary changes again under this bill.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON ECONOMIC DEVELOPMENT AND INTERNATIONAL TRADE:

Prepared by:

Staff Director:

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Lisa Gonzalez

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J. Paul Whitfield, Jr.